

# Case Law Today - March 2011

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California Commission on Peace Officer Standards and Training

### Transporting Medical Marijuana

*with William W. Bedsworth, Appellate Court Justice, State of California*  
Robert Victor Wayman was stopped for a traffic violation and found to be DUI. Search of the interior of the car turned up marijuana. Search of the trunk turned up 31 baggies of marijuana, concentrated cannabis, and collection of paraphernalia. Wayman's defense was that he had the written permission of a doctor to use marijuana for medicinal purposes and kept it in his trunk because his parents—with whom he lived—did not want it in their house. Justice Bedsworth, who wrote the opinion upholding Wayman's conviction, explains why this defense did not fly. *Case cited: People v. Wayman (2010) 189 Cal. App. 4th 215. (5:37)*

### Pandering Statute Doesn't Cover Engaging Prostitute for Self

*with Jeff Rubin, Deputy District Attorney, Alameda County, CA*  
The subdivisions of the pandering statute that make it unlawful to (1) cause, induce, persuade, encourage another person to become a prostitute by promises, threats, violence, or by any device or scheme and unlawful or (2) procure another person for the purpose of prostitution are inapplicable when the suspect only encourages the person to engage in prostitution with the suspect himself. *Cases/Statutes cited: People v. Dixon (2011) 191 Cal.App.4th 1154; People v. Roderigas (1874) 49 Cal. 9; Pen. Code §§ 266i (a)(1)&(2), 647(b). (4:37)*

### Due Process: Delay in Filing Cases

*with Daniel McNeerney, Superior Court Judge, Orange County, CA*  
A delay in the filing of a case due to the crime labs failure to detect important forensics evidence will not result in a dismissal, unless the defendant can demonstrate that he has been "substantially" prejudiced by the delay. *Case cited: People v. Cowan (2010) 50 C4 401. (9:46)*

### Searches of Cell Phones Seized Incident to Arrest

*with Jeff Rubin, Deputy District Attorney, Alameda County, CA*  
Officers may conduct a warrantless search of a cell phone seized from the person of the arrestee incident to arrest even if the search takes place a substantial time after the arrest. However, the search of a cell phone remote in time or place from the arrest may not be similarly justified where the cell phone was not seized from the arrestee's person but was simply found within the area of immediate control of the arrestee at the time of the arrest and where there is no longer any danger that the arrestee might gain access to the phone. *Cases cited: People v. Diaz (2011) 51 Cal.4th 84; United States v. Chadwick (1977) 433 U.S. 1. (9:51)*

### "Unlawful Vehicle Stop and Search"

*with Devallis Rutledge, Special Counsel, Los Angeles CO District Attorney's Office*  
Ninth Circuit finds that officers are subject to civil liability for vehicle stop and search, based partly on recording of conversations by one officer when a second officer was unaware of the recording. *Case cited: Liberal v. Estrada (9th Cir. 2011) WL 149348. (7:10)*

### Motel Room Used for Prostitution = "Inhabited Dwelling?"

*with Jeff Rubin, Deputy District Attorney, Alameda County, CA*  
Robbery committed in an inhabited dwelling is first-degree robbery. A motel room being used by a robbery victim to engage in prostitution, socialize, and eat meals can be an "inhabited dwelling." *Cases/Statutes cited: People v. Long (2010) 189 Cal.App.4th 826; Pen. Code, § 211/212.5. (11:03)*